

REMARKS

Claim Rejections – 35 U.S.C. § 112

Claims 1 and 4 were rejected as being indefinite for their use of the phrase “resilient seal.” It was contended that this language made the claims indefinite because resilience is not quantified.

It is submitted that the words “resilient seal” have their common understood meaning. The artisan of ordinary skill would know what is meant by a “resilient seal.” The specification gives an example of such a seal as being an O-ring. Another example is a rubber washer. Because the ordinary skilled artisan would understand what is meant by the language “resilient seal,” it is submitted that the language of claims 1 and 4 is definite, and it is requested that the rejection be withdrawn.

Claim Rejections – 35 U.S.C. § 102

Claims 1-8, 21, and 25-27 were rejected as being anticipated by the disclosure of the U.S. Patent of Harner, No. 6,118,520. Of these claims, claims 1 and 25 are independent claims. Claims 1 and 25 have been amended herein to recite structural features of the invention that are not disclosed or suggested by the Harner reference, and therefore these claims recite allowable subject matter.

It is a fundamental tenet of patent law that an anticipation rejection requires identity of invention.

For a prior-art reference to anticipate, every element of the claimed invention must be identically shown in a single reference.

In re Bond, 910 F.2d 831, 15 U.S.P.Q. 2d 1566, 1567, 1568 (Fed. Cir. 1990).

Claims 1 and 25 have been amended to recite that the tubular body of the optic probe has an interior surface with internal screw threading. The claims have also been

amended to recite that the tubular body contains a compression tube inside the body with the compression tube engaging in a sliding engagement with the interior surface of the tubular body. The claims have further been amended to recite a compression ring inside the tubular body with the compression ring being screw threaded into the internal screw threading of the tubular body and engaging against the compression tube. This subject matter of claims 1 and 25 is describing the compression tube 80 and the compression ring 90 of the invention that are described on page 16, line 16-page 17, line 8 of the specification. These features of the invention are not disclosed or suggested by the disclosure of the Harner reference.

The Harner reference discloses a tubular insert 66 that slides through the interior of the tubular probe body 50. The insert 66 is pushed through the probe body 50 by a coil spring 72. There is no disclosure or suggestion in the Harner reference of internal screw threading on the interior surface of the probe body 50, or a compression ring screw threaded into the internal screw threading and engaging against the tubular insert 66 as recited in amended claims 1 and 25. In view of these differences between the subject matter of the invention recited in claims 1 and 25 and the disclosure of the Harner reference, claims 1 and 25 are allowable over the prior art.

Claims 2-8 and 21 all depend from claim 1, and claims 26 and 27 depend from claim 25 and are therefore allowable for the same reasons discussed above.

Claim Rejections – 35 U.S.C. § 103

Claims 9-12, 18-20, 22, 28-30, and 34-36 were rejected as being obvious in view of the disclosures of the Harner reference and of the U.S. Patent of Schar et al., No. 4,826,313. Of these rejected claims, claims 9-12 all depend from amended claim 1 and

claims 28-30 and 34-36 all depend from amended claim 25. The Schar reference does not overcome the shortcomings of the Harner reference set forth above in addressing the rejection of claims 1 and 25. For the reasons discussed above, claims 9-12, 28-30, and 34-36 are allowable over the prior art.

Of the remaining claims 18-20 and 22, claim 18 has been amended into independent form herein. Amended claim 18 includes all of the subject matter of original claim 1 and original claim 18, with the additional explanation of the smooth, continuous surface between the tubular body and the tip guard. Amended claim 18 recites the tubular tip guard being secured to the tubular body distal end with an exterior seam between the tubular tip guard and the tubular body. The seam has been welded and later polished providing a continuous, smooth, cylindrical exterior surface between the tubular tip guard and the tubular body.

In contrast to the above, the Schar reference discloses an outer casing 6 of a sensor 1. The drawings of the reference appear to indicate that the casing 6 is screw threaded on the distal end of a tubular body. There is no disclosure or suggestion of a welded seam between the casing 6 and the tubular body that has been later polished to provide a smooth, continuous surface between the casing and the tubular body, as recited in amended claim 18. In view of this, claim 18 is allowable over the combined teachings of the Harner and Schar references.

Claims 19, 20, and 22 all depend from new independent claim 18, and therefore are also allowable over the prior art.

Claims 13-17, 23, 24, and 31-33 were also rejected as being unpatentable in view of the Harner and Schar references, and further in view of what is well-known in

the art. In the rejection, official notice is taken that the limitations of the rejected claims are of a mechanical nature that is well-known in the art.

MPEP § 2144.03 sets forth the procedure for relying on common knowledge or taking official notice. This section provides guidance in determining when it is appropriate to take official notice of facts without supporting documentary evidence or to rely on common knowledge in the art in making a rejection. There it is stated that official notice unsupported by documentary evidence should only be taken by the Examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. This is not the case in this application.

The elements of the invention recited in the rejected claims are not well-known and are not a part of the common knowledge in the art. To emphasize the importance of these features of the invention, of the rejected claims, claims 13, 15, 23, 31, and 32 have all been amended into independent form. As stated in MPEP § 2144.03, it is not appropriate for the Examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well-known are not capable of instant and unquestionable demonstration as being well-known.

The cylindrical cavity 50 recessed into the end surface 48 of the optic sensing element 36, and the optical insert 56 having a distal end portion 58 that is dimensioned to fit in the crystal cavity 50 as recited in claims 13 and 31 is not well-known in the art.

The cleaning cap on the tubular body distal end that extends axially past and encloses the optical sensing element and has at least one side opening into an interior

bore containing the optical sensing element as recited in claim 23 is not well-known in the art.

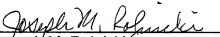
The transparent optic window mounted in the tubular body interior in a position between the optic assembly and the optical sensing element as recited in claim 32 is not well-known in the art.

It is respectfully submitted that for all of the reasons discussed above, claims 13-17, 23, 24, and 31-33 are all allowable over the prior art.

It is respectfully submitted that in view of the amendments and remarks presented herein, the application is in condition for allowance and a favorable action is requested.

Respectfully submitted,

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